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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,293	07/23/2003	Eric Friedberg	82115A	7886
23685	7590	10/21/2004	EXAMINER	
KRIEGSMAN & KRIEGSMAN 665 FRANKLIN STREET FRAMINGHAM, MA 01702			PATEL, DHIRUBHAI R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

gfn

<b>Office Action Summary</b>	<b>Application No.</b> 10/625,293	<b>Applicant(s)</b> FRIEDBERG, ERIC	
	<b>Examiner</b> DHIRU R PATEL	<b>Art Unit</b> 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8,11-15 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,11-15 and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2831

### DETAILED ACTION

1. The indicated allowability of claims 7-8 and 10-19 are withdrawn in view of the newly discovered reference(s) to Esteves, Kochanski, and Kaloustian. Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1- 4, and 6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Esteves et al (6,130,384).

Esteves et al disclose :

Art Unit: 2831

Regarding claim 1, (a) a faceplate 30 (see fig 9, column 3 lines 20-30); and  
(b) a storage device 10,190 coupled to said faceplate (see fig 9, column 3 lines 20-47, column 5 lines 14-15), said storage device being sized and shaped to retain a portable electric appliance (see fig 9 and element number 190 to retain a portable electric appliance ). It is noted that the assembly of Esteves et al meet the structural limitations.

Regarding claim 2, wherein said storage device is removably coupled to said faceplate (see fig 9, column 3 lines 20-30).

Regarding claim 3, wherein said faceplate is adapted to partially cover an electrical device 50 (see fig 9). In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Regarding claim 4, wherein said faceplate is adapted to partially cover an electrical receptacle having one or more outlets (see fig 9, column 4 lines 25-30, column 6 lines 45-50). In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Regarding claim 6, wherein said storage device comprises a front panel, a rear panel, a pair of side panels and a bottom panel which together partially define an interior cavity (see fig 9 and element # 190, please note that Esteves et al disclosed that the storage device 10 includes a tray 190, see column 5 lines 14-15).

Art Unit: 2831

3. Claims 1- 6, 8 and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Kochanski et al (6,784,364).

Kochanski et al disclose :

Regarding claim 1, (a) a faceplate 18 (see figs 1-2); and

(b) a storage device 12 coupled to said faceplate (see figs 1-2, column 2 lines 24-30), said storage device being sized and shaped to retain a portable electric appliance (see column 1 lines 10-62).

Regarding claim 2, wherein said storage device is removably coupled to said faceplate (see figs 1-2, column 2 lines 25-35).

Regarding claim 3, wherein said faceplate being adapted to partially cover an electrical device (see figs 1-2, column 1 lines 40-62). In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Regarding claim 4, wherein said faceplate being adapted to partially cover an electrical receptacle having one or more outlets (see figs 1-2, column 3 lines 25-40). In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Art Unit: 2831

Regarding claim 5, wherein said storage device comprises a pocket-shaped holder which includes a plurality of panels 14 that together define an interior cavity 16, at least one of the plurality of panels being shaped to include an opening (an opening for extensible members 22 and 24, see column 2 lines 45-55 and figs 1-2) in communication with the interior cavity.

Regarding claim 6, wherein said storage device 12 comprises a front panel, a rear panel, a pair of side panels and a bottom panel which together partially define an interior cavity (see figs 1-2, column 3 lines 5-15).

Regarding claim 20, the combination of: (a) a faceplate 18 (see figs 1-2); and (b) a storage device 12 coupled to said faceplate (see figs 1-2, column 2 lines 24-30), said storage device being adapted to retain a portable electric appliance (see column 1 lines 10-62), said storage device comprises a front panel, a rear panel, a pair of side panels and a bottom panel which together partially define an interior cavity 16 (see figs 1-2, column 3 lines 5-15), the bottom panel of said storage device being shaped to include an opening (an opening for extensible members 22 and 24, see column 2 lines 45-55 and figs 1-2).

Regarding claim 8, said storage device being adapted to retain a portable electric appliance within its interior cavity (see figs 1-2, column 1 lines 10-62). In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Art Unit: 2831

4. Claims 11, 17-19 and 21-22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Kaloustian (6,756,543).

Kaloustian discloses :

Regarding claim 22, the combination of: a faceplate 10 , said faceplate including a fastening device 64, said faceplate including a cover 12 and a flange 60 which are integrally formed together (see fig 4); and a storage device 14 coupled to said faceplate (see fig 4), said storage device being adapted to retain a portable electric appliance (see fig 4). In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Regarding claim 17, wherein the cover 12 of said faceplate includes a substantially flat front surface (see fig 4).

Regarding claim 18, wherein the flange 60 of said faceplate extends generally orthogonally out from the flat front surface of the cover (see fig 4).

Regarding claim 19, wherein the fastening device on said faceplate is integrally formed onto the flange 60 (see fig 4, column 4 lines 45-50).

Regarding claim 21, the combination of: a faceplate 12 , said faceplate including a fastening device 64, and a storage device 14 coupled to said faceplate (see fig 4), said storage device being adapted to retain a portable electric appliance (see fig 4), said storage device including at least one fastening device which is adapted to engage the fastening device on said

Art Unit: 2831

faceplate (see column 5 lines 10-15 and fig 5). In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Regarding claim 11, the at least one fastening device on said storage device being sized and shaped to releasably engage the fastening device on said faceplate (see fig 5, column 5 lines 10-15).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-15 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Kaloustian (6,756,543).

Kaloustian discloses:

Regarding claims 12-15, the assembly of Kaloustian disclose all the features of the claimed invention, including the container portion 14 being secured to the cover portion by other suitable attachment mechanism (see column 5 lines 10-15), but fails to disclose the fastening



Art Unit: 2831

device is in the form of a bracket (for claim 12), the at least one fastening device is in the form of a hook (for claim 13), and the fastening device is shaped to define a slot (for claim 14) and the at least one fastening device on said storage device protrude into the slot formed in the fastening device on said plate (for claim 15). it would have been an obvious matter of design choice to use the fastening device is in the form of a bracket (for claim 12), the at least one fastening device is in the form of a hook (for claim 13), and the fastening device is shaped to define a slot (for claim 14) and the at least one fastening device on said storage device protrude into the slot formed in the fastening device on said faceplate (for claim 15) , since applicant has not disclosed that the fastening device is in the form of a bracket (for claim 12), the at least one fastening device is in the form of a hook (for claim 13), and the fastening device is shaped to define a slot (for claim 14), and the at least one fastening device on said storage device protrude into the slot formed in the fastening device on said faceplate (for claim 15) solves any stated problem or is for any particular purpose and clearly disclosed that fastening devices are meant to represent any conventional fastening means (see entire page 9), and it appears that the invention would perform equally well with if designed with said fastening devices (said faceplate and said storage device) of Kaloustian.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2831

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-6, 8, 11-15, and 17-19 have been considered but are moot in view of the new ground(s) of rejection.

***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Art Unit: 2831

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Dhiru Patel  
Primary Examiner  
Group Art Unit 2831  
October 17, 2004

*Dhiru R Patel*  
10/17/04  
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